

# WORLD TRADE ORGANIZATION

RESTRICTED

**WT/REG117/4**

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**Committee on Regional Trade Agreements**

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## **FREE TRADE AREA BETWEEN THE EFTA STATES AND THE FORMER YUGOSLAV REPUBLIC OF MACEDONIA**

### Questions and Replies

This document reproduces questions addressed to the EFTA States and the responses submitted. The questions and replies set out below are organized in accordance with document WT/REG117/3.

#### **I. BACKGROUND INFORMATION ON THE AGREEMENT**

##### **3. Scope**

**It is not clear that this agreement meets the requirement that duties and other restrictive regulations of commerce be eliminated on "substantially all the trade" between the Parties because of a lack of coverage of agriculture products. Please provide additional information on the products for which duties are being eliminated, particularly in the agriculture sector, and on the products on which duties or other restrictive regulations of commerce remain, including products on which the Parties will impose tariff-rate quotas (TRQs).**

The precise meaning of the terms "substantially all the trade" set out in GATT Article XXIV:8(b) is not defined. However, it is clear that it means less than all trade. It is important to note that the terms used in Article XXIV:8(b) is "substantially all the trade" and not "trade in substantially all products" or "trade in substantially all sectors". Hence, the obligation is not defined by sector or by products but by trade as a whole. In the view of the Parties, trade in agriculture must be seen as part of the total coverage. According to the statistics provided in document WT/REG/117/3, more than 88 per cent of the total trade will be duty-free at the end of the transitional period, 0.3 per cent will enjoy reduced duty and for 11.4 per cent of traded products duties will remain. In the view of the Parties, the criteria for the elimination of duties and other restrictive regulations of commerce on substantially all the trade has been fulfilled.

**What changes, if any, had been made in EFTA's and Macedonia's applied rates at the time the Agreement was under negotiation, and subsequently when it was implemented by both Parties?**

No changes were made during the negotiations. The applied MFN rate was fixed at the level as applied on 1 January 2000.

#### **4. Trade Data**

**Please provide statistics on tariff treatment by sector.**

Document WT/REG/117/3 provides statistics by HS chapter. An agreement of this kind should, however, not be approached on a sector-by-sector basis. It is important to note that the terms used in Article XXIV:8(b) is "substantially all the trade" and not "trade in substantially all products" or "trade in substantially all sectors". Hence, the obligation is not defined by sector or by products but by trade as a whole.

**It is not clear that the data provided actually allow full assessment of the scope of the Agreement. Could the Parties provide information that indicates the amount of trade affected, by volume and HS code, at zero-, preferential-, and MFN-duty levels on full implementation?**

In document WT/REG117/3, the Parties have already provided trade data including information that indicates the amount of trade covered by the Agreement, by volume and HS chapter, and at zero-, reduced-, and MFN-duty levels. The Parties reiterate that in their opinion the data provided allows for full assessment of the scope of the Agreement.

## **II. TRADE PROVISIONS**

### **1. Import Restrictions**

**Please confirm that implementation of the requirement to eliminate all duties and other restrictive regulations of commerce will not extend beyond ten years. Please identify any items for which implementation will not occur within the ten-year period and the date when implementation for those items will occur.**

Article XXIV.8(b) states that the duties and other restrictive regulations of commerce are to be eliminated on substantially all the trade. As shown in the trade data provided in document WT/REG/117/3, at the end of the transitional period of nine years more than 88 per cent of EFTA-Macedonia trade will enjoy duty-free treatment, 0.3 per cent of trade will enjoy reduced duty; and 11.4 per cent will be subject to MNF duty rates. Thus, duties on substantially all the trade will be eliminated within a period that will not extend beyond ten years.

**The Parties state that no new customs duties on imports or charges having equivalent effect may be introduced between the Parties and that customs duties on imports and any charges having equivalent effect shall be abolished (WT/REG117/3). Could the Parties comment on any non-tariff import measures that are applied to third countries and not to intra-FTA trade? We would appreciate a list of such measures. This request is made in the interest of transparency.**

The EFTA States do not apply any such non-tariff import measures.

**Which products are subject to TRQs? What are the TRQ amounts? Do TRQs increase from year to year? Is this tonnage in addition to the amounts agreed in the Uruguay Round?**

Neither Norway nor Iceland maintain any TRQs. Macedonia maintains certain TRQs for cheese and aquavit from Norway.

Switzerland/Liechtenstein maintains TRQs on imports from Macedonia for parts of HS 0204 (Sheep and goat meat); HS 0407 (eggs); HS 0603 (flowers); HS 0701 (potatoes); HS 0703 (onions); HS 0704 (cabbage); HS 0707 (cucumbers); HS 0708 (beans); HS 0712 (dried potatoes); HS 0808 (apples, pears); HS 0809 (inter alia apricots, cherries); HS 0810 (inter alia strawberries); HS 2009 (fruit juices). These quotas are granted within the quantities of the WTO tariff quotas, as contained in List LIX of Switzerland's commitments made in the Uruguay Round.

#### **4. Standards**

**With respect to standards, the Parties state that they will "promote in particular Europe-wide solutions" (WT/REG117/3). Could the Parties please clarify this language?**

The EFTA States have traditionally aimed at aligning their approach with the one of the European Union. Three of the four EFTA States have fully harmonised their standards with those of the EU in the framework of the EEA (European Economic Area) Agreement. In the framework of Switzerland's bilateral agreements with the European Community, an Agreement on mutual recognition in relation to conformity assessment has been concluded.

**With respect to standards, do the Parties participate in any arrangements on the recognition of conformity assessment procedures, any mutual recognition arrangement or have plans to do so? Would such arrangement be an amendment or part of this Agreement?**

The Parties do not participate in any mutual recognition agreement (MRA) or any similar arrangements.

**In the Agreement, the Parties indicate that any technical regulations will be governed by the WTO TBT Agreement, but do not use the same language for sanitary and phytosanitary measures. Will the Parties employ SPS measures in accordance with the Agreement on the Application of Sanitary and Phytosanitary Measures?**

Macedonia and the EFTA States are fully committed to complying with all WTO Agreements, including the SPS Agreement. The different language used for the provisions governing technical regulations and sanitary and phytosanitary measures should not be interpreted in any way as to mean the non-compliance with the two respective WTO Agreements.

#### **5. Safeguards**

**Does this agreement provide for any special conditions or preferential treatment between the Parties in the application of global safeguard measures? If so, please describe.**

There are no specific provisions in the Agreement related to global safeguard measures, nor are there any provisions providing for preferential safeguard measures, thus the relevant WTO provisions apply. It follows that safeguard measures in the sense of Article XIX of the GATT 1994 are to be applied on an MFN basis, i.e. both to RTA partners and other WTO Members. Moreover, Article 24 of the Agreement contains procedures for the application of specific safeguard measures which may be invoked by a Party under certain circumstances (rules of competition, dumping, emergency action on imports of particular products, re-export and serious shortages and fulfilment of obligations)."

**Have the safeguard provisions of the Agreements ever been used? If so, when and for what products?**

The Agreement has not yet entered into force and its provisions are not yet applicable between the Parties.

**If the Agreement has flexibility for either party to impose safeguard measures, are there any legal constraints on doing so? What happens if one party wishes to reimpose the MFN rate?**

There are no specific provisions in the Agreement related to global safeguards, thus the relevant WTO provisions apply.

Before initiating the procedure for the application of bilateral safeguard measures set out in Article 24 of the Agreement, the Parties are committed to endeavour to solve any differences between them through direct consultations, and inform the other Parties thereof.

A Party which considers resorting to safeguard measures is obliged to promptly notify the other Parties and the Joint Committee thereof and supply all relevant information (without prejudice to paragraph 6 of Article 24). Consultations between the Parties are to take place without delay in the Joint Committee with a view to finding a commonly acceptable solution.

The safeguard measures need to be notified immediately to the Parties and to the Joint Committee and are restricted with regard to their extent and to their duration to what is strictly necessary in order to rectify the situation giving rise to their application and may not be in excess of the injury caused by the practice or the difficulty in question. Priority needs to be given to such measures that will least disturb the functioning of this Agreement. The measures taken by Macedonia against an action or an omission of an EFTA State may only affect the trade with that State. The measures taken against an action or omission of Macedonia may only be taken by that or those EFTA States the trade of which is affected by the said action or omission.

The safeguard measures taken are the object of regular consultations within the Joint Committee with a view to their relaxation, substitution or abolition, when conditions no longer justify their maintenance.

## **7. Subsidies and State-aid**

**Have the subsidies and State-aid provisions of the Agreement ever been used? If so, when?**

The Agreement has not yet entered into force and its provisions are not yet applicable between the Parties.

## **8. Sector-specific provisions**

**Please provide more detailed information on the treatment of agricultural products and duty treatment of groups of products. Will duty elimination provided for in the agreement be extended to other agricultural products currently excluded? If so, when?**

Information on the treatment of processed and basic agricultural products is contained in document WT/REG117/3. It is important to note that the terms used in Article XXIV:8(b) is "substantially all the trade" and not "trade in substantially all products" or "trade in substantially all sectors". Hence, the obligation is not defined by sector or by products but by trade as a whole.

Consequently, the EFTA States do not approach an agreement of this kind on a sector-by-sector basis. Trade in agriculture, in our view, must be seen as a part of the total coverage.

The Agreement contains a review clause on trade in agricultural products (Article 12) as well as a specific review clause for processed agricultural products (Article 6 of Protocol A) allowing for a review of the treatment agreed upon at a later point in time. In addition, the bilateral agricultural arrangements between the respective EFTA State and Macedonia provide for periodical reviews for trade in agricultural products.

## **9. Other**

**Which public monopolies are subject to the provisions of the Agreement? Are all state monopolies notified as required by Article XVII of the GATT 1994? If not, could the Parties please list all such entities covered by this relevant article and explain why they are not covered by Article XVII of GATT.**

As contained in document WT/REG/117/3, the Agreement ensures that any state monopoly of a commercial character be adjusted, with the exceptions listed in Protocol C to the Agreement, so that no discrimination regarding the conditions under which goods are procured and marketed exists between nationals of the Parties. The Parties have notified the relevant state monopolies pursuant to Article XVII of the GATT 1994 on State Trading Enterprises.

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